

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.22 OF 2017

ORDER:

This is a revision filed against the order dated 25.11.2016 passed in I.A.No.554 of 2016 in FCOP No.445 of 2016 by the XV Additional District Judge, Ranga Reddy District, Kukatpally at Miyapur.

I.A.No.554 of 2016 is an application filed under Rule 32 of Civil Rules of Practice by the wife, who is the petitioner before this Court and in the lower Court, for permission to be represented by her father, who is the GPA holder. The said application was rejected. It is the averment of the petitioner that she received the notice from the Court in the FCOP and after receipt of the notice, she executed General Power of Attorney on 05.07.2016 in favour of her father authorizing him to represent her case and went to United States of America on employment. The GPA filed an application under Civil Rules of Practice seeking permission to represent the petitioner. This application was rejected on merits after the respondent-husband filed a counter and written submissions opposing the same. The said order is assailed in this revision.

Along with this revision, the petitioner also gave an affidavit, which was sworn on 29.12.2016 and filed as a material paper, stating that she is working as Bio-Chemist in the United States of America and undertaking to appear before the lower Court whenever her presence is required.

Learned counsel for the petitioner relied on a decision reported in ***Dasam Vijay Rama Rao v. M.Sai Sri***¹, wherein it was held that with the advancement of electric technology, particularly, in matrimonial matters, the Court should move towards using information technology for conducting the matter.

Keeping in view the same, this Court is of the opinion that the impugned order is not correct in these circumstances. For routine adjournments, forcing the petitioner to come from United States and appear will actually do injustice to her. This Court notices that she has also given an affidavit undertaking to appear before the Court whenever her presence is necessary.

The general power of attorney that is executed is governed by the Indian Contract Act and also the Power's of Attorney Act. As such, the statute permits an agent to represent another. The only requirement of law under Rule 32 of Civil Rules of Practice is that before taking any steps, the GPA holder should file an application seeking the permission of the Court to represent the Principal.

This Court is of the opinion that the application under Rule 32 of Civil Rules of Practice permitting the GPA holder to represent the party before the Court is to be allowed and therefore, the impugned order dated 25.11.2006 is set aside. However, it is made clear that in view of the undertaking given by the petitioner if the lower Court is of the opinion that her presence is absolutely necessary, the same can be ordered by it. The lower Court is also directed to follow the directions/guidelines in the judgment reported in ***Dasam Vijay Rama Rao's*** case (referred supra), to avoid unnecessary costs and inconvenience to the parties

¹ 2015(4) ALD 757

particularly for adjournments where the presence of parties is not really necessary.

With these observations and directions, the Civil Revision Petition is allowed.

Miscellaneous petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 05.01.2018
ssp

